

**United States Department of the Interior
Bureau of Land Management**

**Categorical Exclusion
DOI-BLM-CO-SO50-2014-0023 CX**

May 2014

McCracken Ditch and Irrigation Pipeline

Location: *Gunnison Gorge National Conservation Area*

**U.S. Department of the Interior
Bureau of Land Management
Uncompahgre Field Office
2465 South Townsend Avenue
Montrose, CO 81401
Phone: (970) 240-5300**



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CATEGORICAL EXCLUSION

NUMBER: DOI-BLM-CO-S050-2014-0023 CX

PROJECT NAME: McCracken Ditch and Irrigation Pipeline

PLANNING UNIT: Gunnison Gorge National Conservation Area

LEGAL DESCRIPTION: T. 50N., R. 9W., Section 17, SE1/4SE1/4, NMPM

APPLICANT: Alfred McCracken

BACKGROUND: During the summer of 2013 there were two large rain events in this area. A drainage ditch over flowed and the water flooded across Peach Valley Road, a Montrose County road. The county road is located on the west side of the ditch. After flowing across the county road, the water flowed across a farm field. The water also over flowed to the east and flooded the area around the applicant's home. The ditch had silted in and needed to be cleaned and widened so the water would continue to flow within the ditch instead of flooding the nearby areas during high water events. The ditch will need to be maintained on a regular basis in the future. The applicant has also applied for an absolute water right to use water flowing in the ditch on his farm field. The water engineer has recommended approval of a water right for .075cfs which is enough water to irrigate three acres. The absolute water right is conditional upon the applicant being granted a ROW for the ditch and irrigation pipeline.

DESCRIPTION OF PROPOSED ACTION: The Proposed Action is to grant a ROW for the drainage ditch and an irrigation water pipeline. The portion of ROW for the ditch will be 1,085 feet long and 30 feet wide and contain .74 acres. There will be a diversion box put in the ditch to divert water into the pipeline. The portion of ROW for the pipeline will be 325 feet long and 10 feet wide and contain .07 acres for a 6-inch diameter buried pipeline. The pipeline will be installed within the shoulder of an existing road. The Proposed Action contains a total of .81 acres. The ROW will be issued under FLPMA for 30 years with the right of renewal and will be subject to rent and the attached stipulations (Appendix A). A map of the project is in Appendix B.

PLAN CONFORMANCE REVIEW: The Proposed Action is subject to and has been reviewed for conformance with (43 CFR 1610.5, BLM 1617.3) the following plan:

Name of Plan: Gunnison Gorge National Conservation Area Resource Management Plan and Record of Decision

Date Approved: November 2004

Decision Number/Page: Land-2-4, Land-2-6. Page 2-50

Decision Language: Land -2-4. A ROW corridor 0.5-mile wide and approximately one-quarter mile wide will be designated on public lands at the northern end of Management Unit 2 along the western edge of NCA.

Land-2-6, Mitigation will be required in all ROW applications to meet the objectives of this management unit.

CATEGORICAL EXCLUSION REVIEW: The Proposed Action qualifies as a categorical exclusion under 516 DM 11.9, Number E. #12, which allows for "grants of right-of-way wholly within the boundaries of other compatibly developed right-of-ways". The irrigation pipeline will be buried within an existing road ROW. The Proposed Action also qualifies as a categorical exclusion under 516 DM 11.9, Number E. #17, which allows for "grant of short rights-of-way for utility service or terminal access roads to an individual residence, outbuilding, or water well". This is a short right-of-way for the ditch.

None of the following exceptions in 516 DM 2, Appendix 2, apply.

Exclusion	YES	NO
1. Have significant adverse effects on public health and safety.	<u> </u>	<u> X </u>
2. Have adverse effects on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands, floodplains; national monuments; migratory birds; and other ecologically significant or critical areas.	<u> </u>	<u> X </u>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.	<u> </u>	<u> X </u>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	<u> </u>	<u> X </u>
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.	<u> </u>	<u> X </u>
6. Be directly related to other actions with individually insignificant but cumulatively significant environmental effects.	<u> </u>	<u> X </u>
7. Have significant impacts on properties listed, or eligible for listing, in the National Register of Historic Places.	<u> </u>	<u> X </u>
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.	<u> </u>	<u> X </u>
9. Violate a Federal law, or a State, local or tribal law or requirement	<u> </u>	<u> X </u>

- imposed for the protection of the environment. _____ X
10. Have disproportionately high and adverse effect on low income or minority populations. _____ X
11. Limit access to and ceremonial use of Indian sacred sites by Indian religious practitioners or adversely affect the physical integrity of such sacred sites. _____ X
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species. _____ X

INTERDISCIPLINARY REVIEW:

<u>Name</u>	<u>Title</u>	<u>Area of Responsibility</u>
Glade Hadden	Archaeologist	Cultural, Native American Religious Concerns
Ken Holsinger	Biologist	T&E and Migratory Birds
Barney Buria	EPS	Lands and Realty
Teresa Pfifer	Lands Supervisor	Lands and Realty

REMARKS:

Cultural Resources: The entire project is situated in previously inventoried and disturbed ground. Cultural resource inventory requirements are waived under the provision of BLM 2110.23B2 and 2110.23B3. No further work is required.

Native American Religious Concerns: There are none known or anticipated for this project.

Threatened and Endangered Species: Authorizing the proposed right-of-way would not result in the irrigation of previously undisturbed Mancos shale soils. These soils have been shown to mobilize salts and selenium into the Colorado River system.

There are no other animal or plant species listed, proposed, or candidate to the Endangered Species Act, nor considered sensitive by the BLM, that are known to inhabit or derive important use of the areas potentially influenced by the proposed action.

NAME OF PREPARER: Barney Buria

NAME OF ENVIRONMENTAL COORDINATOR: 

DATE: May 1, 2014

COMPLIANCE WITH NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, E. #12 and #17. This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply.

SIGNATURE OF AUTHORIZED OFFICIAL: _____

Barbara Sharrow

Barbara Sharrow

Field Manager

Uncompahgre Field Office

DATE SIGNED: 5-6-14

Appendix A - Stipulations

Appendix B – Right-of-Way Map

RIGHT-OF-WAY STIPULATIONS

1. The holder shall contact the Authorized Officer (AO) at least 60 days prior to the anticipated start of any surface disturbing activities. For emergencies, the holder will contact the BLM as soon as possible after maintenance activities. It is the holder's responsibility to comply with all applicable Federal, State, and local laws and regulations existing or hereafter enacted or promulgated. The BLM will determine if any surveys or inventories are required. As necessary, the holder shall demonstrate compliance in writing, i.e., with surveys and inventories completed by qualified individuals, with the following laws including, but not limited to, the Endangered Species Act (if potential habitat is determined to be present), the National Historic Preservation Act, and the Native American Graves Protection and Repatriation Act. Evaluations and inventories can be completed by BLM, or by the holder in order to meet the holder's schedule and subject to approval by the AO. Inventories may be time sensitive and may require US Fish and Wildlife Service concurrence, therefore this process could take longer than 60 days to complete. The holder shall not initiate any surface disturbing activities on the right-of-way without prior written approval, as determined necessary by the AO. Contact the BLM Realty Specialist, or BLM Environmental Protection Specialist as the alternate, at (970) 240-5300.
2. Any relocation, additional construction, or use that is not in accord with the approved conditions shall not be initiated without the prior written approval of the authorized officer. A copy of the complete right-of-way grant, including all plans and stipulations shall be made available at the right-of-way site during construction. Noncompliance with the above will be grounds for an immediate temporary suspension of activities if it constitutes a threat to public health or the environment.
3. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder. The holder is responsible for informing all persons who are associated with the project that they will be subject to prosecution for knowingly disturbing historic or archaeological sites, or for collecting artifacts.
4. Pursuant to 43 CFR 10.4(g), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

The holder is responsible for informing all persons who are associated with the project that they will be subject to prosecution for knowingly disturbing historic or archaeological sites, or for collecting artifacts.

5. Use of pesticides/herbicides shall comply with the applicable Federal and state laws. Pesticides/herbicides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides/herbicides, the holder shall obtain from the authorized officer written approval of the applicant's plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. The plan should be submitted no later than March 1 of any calendar year to cover the proposed activities for the next growing season. Emergency use of pesticides/herbicides shall be approved in writing by the authorized officer prior to such use.
6. The holder shall be responsible for weed control within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations) including pesticides/herbicides approved for use on BLM land.
7. The holder shall comply with applicable State standards for public health and safety, environmental protection and siting, construction, operation and maintenance, if these State standards are more stringent than Federal standards for similar projects.
8. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated regarding toxic substances or hazardous materials. In any event, the holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, section 102b. A copy of any report required or requested by any federal agency of state government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency of State government.
9. The authorized officer may suspend or terminate in whole, or in part, any construction or maintenance activities, when in his judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.
10. All construction, operation and maintenance shall be within the authorized limits of the right-of-way granted herein.

11. All brush, grasses, and other woody material cleared from the right-of-way shall be removed from the public land and not scattered on site; unless the debris is mulched and used for reclamation as natural materials to enhance surface stability and re-vegetation efforts.
12. No burning of trash, litter, trees, brush or other vegetative material shall be allowed under this grant.
13. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support such equipment. If the equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support the construction equipment.
14. The holder shall disturb the minimum amount of soils and vegetation necessary for the construction, operation, and maintenance of the facility. The holder shall recontour disturbed areas as necessary by grading to restore the area to approximately the original contour of the ground as directed by the authorized officer.
15. The holder shall contact the AO to determine the appropriate seed mix to be used on all disturbed areas in the right-of-way. BLM places the following requirements on seed mixes which are put on BLM lands:

- 1) Use the following minimum PLS (Pure Live Seed) tolerances

PLS tested % Tolerance % points

81-100 -7

61-80 -6

41-60 -5

21-40 -4

0-20 -3

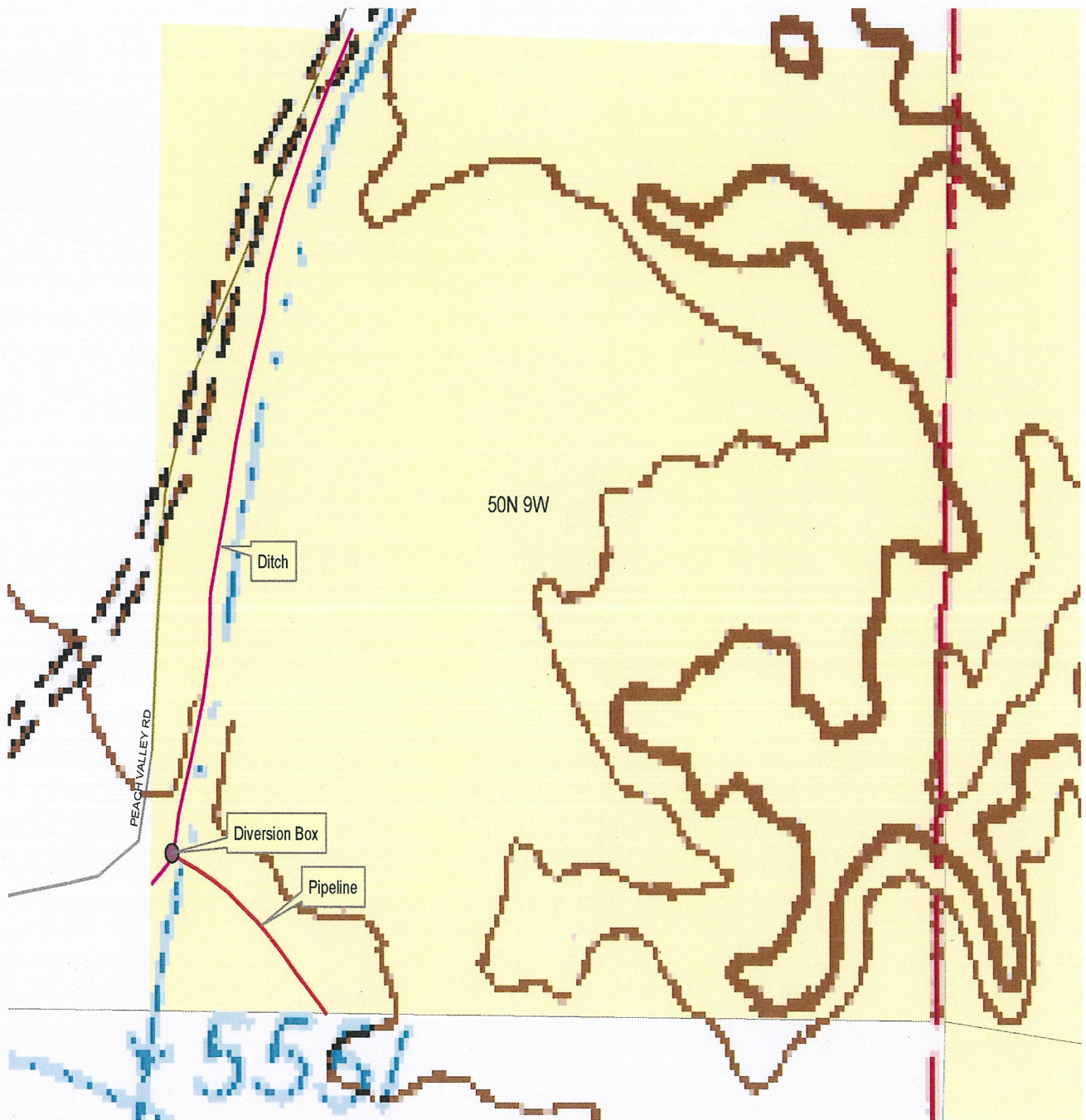
All seed must comply with BLM and Colorado weed seed guidelines. There should be no prohibited species seed, and no more than allowable levels of restricted species seed. In addition, there should be no more than 0.5% total weed seed, less than 2% other seed, and no trash larger than 1/4" in length. Seed shall not be stored in burlap bags.

- 2) The BLM Uncompahgre Field Office places additional local restrictions on seed to minimize cheatgrass spread. If seed tests show any *Bromus tectorum* or *Bromus japonicus*, the BLM should be consulted with for approval. No mix placed on BLM shall contain more than 150 *Bromus tectorum* and/or *Bromus japonicus* seeds per pound.
- 3) BLM requires additional seed tests on seeding projects that are greater than 20 acres and/or require over 200 lbs of seed. For these seeding projects, the holder should have the seed supply company store the purchased seed prior to mixing, and pull samples to be sent to a certified laboratory, preferably Wyoming State Seed Laboratory at the following address. Seed test results must comply with the criteria listed above before seed is mixed, shipped and applied to the project area:

Wyoming State Seed Laboratory
749 Road 9
Powell, WY 82435

- 4) BLM will need copies of seed tags and test results for all seed applied regardless of project size.
 - 5) Only State Certified weed free mulch shall be used.
16. Prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination and rehabilitation plan as necessary. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.
17. Per the AO, the holder shall conform to the following mitigation measures to ensure the project minimizes effects to any federally listed or sensitive species:
- To the extent possible, reptiles or amphibians observed in the project area will be avoided and will not be intentionally harmed.
 - Migratory Birds and Raptors: To minimize impacts on migratory bird populations, it is recommended that no surface disturbing activities occur from May 15th through July 15th. This timeframe encompasses the core breeding season for the majority of migratory birds in the project area. Project activities shall refrain and avoid modifying identified cavity trees, snags, and perches in the project area.

RIGHT -OF-WAY MAP



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Decision Record

(DOI-BLM-CO-S050-2014-0023 CX)

PROJECT NAME: McCracken Ditch and Irrigation Pipeline

DECISION: It is my decision to issue a ROW as described under the Proposed Action to Alfred McCracken for a drainage ditch and an irrigation water pipeline. The ditch ROW will be 1,085 feet long, 30 feet wide and contain .74 acres. The pipeline ROW will be 325 feet long, 10 feet wide and contain .074 acres for a 6-inch diameter buried pipeline. There will also be a diversion put in the ditch to divert the irrigation water into the pipeline. The ROW will be issued under FLPMA for 30 years with the right of renewal and be subject to rent and the attached stipulations.

MITIGATION MEASURES: All stipulations shown in Exhibit A of the Categorical Exclusion (CX) will be followed.

RATIONALE:

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, E. #12 and #17. This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply.

COMPLIANCE WITH MAJOR LAWS and CONFORMANCE WITH LAND USE PLAN:

The decision is in compliance with applicable laws, regulations and policy, including the Endangered Species Act, Migratory Bird Treaty Act and National Historic Preservation Act. It is also in conformance with the Gunnison Gorge National Conservation Area RMP.

PUBLIC COMMENT:

The BLM informed the public about this project by listing it on the online Uncompahgre NEPA Register and a copy of the completed Categorical Exclusion will be posted on the NEPA website.

ADMINISTRATIVE REMEDIES:

If you are adversely affected by this decision, within 30 days of receipt of this decision you have the right of appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR §4.400.

NAME OF PREPARER: Barney Buria

NAME OF ENVIRONMENTAL COORDINATOR: Barney Buria

DATE May 1, 2014

SIGNATURE OF AUTHORIZED OFFICIAL Barbara Sharrow

Barbara Sharrow
Field Manager
Uncompahgre Field Office

DATE SIGNED 5-6-14